

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
NORFOLK DIVISION



JTH TAX, INC. d/b/a LIBERTY TAX  
SERVICE,

Plaintiff,

Civil No. 2:07cv154

v.

NIEN VAN,

Defendant.

Declaration of Scott Black

Pursuant to 28 U.S.C. § 1746, I, Scott Black, having personal knowledge of the facts herein state under oath as follows:

1. I am employed by JTH Tax, Inc. as the Head Report Developer within the Technology department at the Liberty Tax Corporate Headquarters and have held this position since June 2001.
2. Through our computer databases we are able to track the tax preparation progress of any Liberty Tax store.
3. The following chart illustrates the decline in the number of tax returns prepared by Nien Van at 235 South Commercial Street, Aransas Pass, Texas 78336 from 2004 through March 2007:

<u>Year</u>	<u>Number of Returns Prepared</u>	<u>Gross Fees Collected</u>
2004	1,542	\$83,809.00
2005	943	\$73,487.00
2006	437	\$66,822.50
1/1/07 – 2/28/07	289	\$45,826.00

4. Van's declining performance is not typical of Liberty's franchisees. In fact, each year an average franchisee operates, their number of returns typically increases. Attached hereto as Exhibit 1 is a true and correct copy of Item 19 of Liberty's January 2007 Uniform Franchise Offering Circular which elaborates on an average franchisees increase in the number of tax returns prepared with each year of operation.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 26 day of March 2007.

  
 Scott Black



**LIBERTY TAX SERVICE  
UNIFORM FRANCHISE OFFERING CIRCULAR**

JTH TAX, INC.  
1716 Corporate Landing Parkway  
Virginia Beach, VA 23454  
(757) 493-8855  
(800) 790-3863

**INFORMATION FOR PROSPECTIVE FRANCHISE OWNERS  
REQUIRED BY THE FEDERAL TRADE COMMISSION**

To protect you, we have required your franchiser to give you this information. We have not checked it and we do not know if it is correct. It should help you make up your mind. Study it carefully. While it includes some information about your contract, do not rely on it alone to understand your contract. Read all of your contract carefully. Buying a franchise is a complicated investment. Take your time to decide. If possible, show your contract and this information to an advisor, like a lawyer or accountant. If you find anything you think may be wrong or anything important that has been left out, you should let us know about it. It may be against the law. There may also be laws on franchising in your state. Ask your state agencies about them.

FEDERAL TRADE COMMISSION  
Washington, DC 20580



supersede the franchise agreement in your relationship with the franchiser including the areas of termination and renewal of your franchise.

### ITEM 18 PUBLIC FIGURES

We have paid \$30,000 for the use of Terry Bradshaw's name and appearance in promoting the sale of our franchise. The right does not expire. We have produced a television ad and DVD which feature Mr. Bradshaw. Mr. Bradshaw does not manage or own an interest in us.

### ITEM 19 EARNINGS

This section contains information regarding the average federal income tax returns prepared or filed by Liberty Tax storefront franchised offices of franchisees who operated one office during the time period January 1 – December 31, 2005. Excluded from these figures are offices which did not operate in storefront locations, such as kiosk or Kmart locations, and offices owned by franchisees with multiple offices in operation. The data presented is based largely upon information received from independent franchise owners, and has not been audited or otherwise verified by us. Immediately following the statement is additional information that you should carefully consider in order to understand this performance information in the appropriate context, including the paragraph below entitled "Free Return Policy."

<b>1<sup>st</sup> year offices</b>			
	<b>No. of Offices <u>In Category</u></b>	<b>Avg # tax <u>Returns</u></b>	<b>% of Offices Which <u>Equaled or Exceeded Avg</u></b>
<b>Top 25%</b>	<b>57</b>	<b>699</b>	<b>10.62</b>
<b>Second 25%</b>	<b>57</b>	<b>413</b>	<b>37.17</b>
<b>Third 25%</b>	<b>57</b>	<b>293</b>	<b>62.39</b>
<b>Bottom 25%</b>	<b>55</b>	<b>137</b>	<b>89.82</b>

<b>2d year offices</b>			
	<b>No. of Offices <u>In Category</u></b>	<b>Avg # tax <u>Returns</u></b>	<b>% of Offices Which <u>Equaled or Exceeded Avg</u></b>
<b>Top 25%</b>	<b>27</b>	<b>970</b>	<b>11.43</b>
<b>Second 25%</b>	<b>27</b>	<b>625</b>	<b>37.14</b>
<b>Third 25%</b>	<b>27</b>	<b>489</b>	<b>65.71</b>
<b>Bottom 25%</b>	<b>24</b>	<b>314</b>	<b>89.52</b>

<b>3d year &amp; older offices</b>			
	<b>No. of Offices <u>In Category</u></b>	<b>Avg # tax <u>Returns</u></b>	<b>% of Offices Which <u>Equaled or Exceeded Avg</u></b>
<b>Top 25%</b>	<b>39</b>	<b>1142</b>	<b>9.09</b>
<b>Second 25%</b>	<b>39</b>	<b>757</b>	<b>37.66</b>
<b>Third 25%</b>	<b>39</b>	<b>558</b>	<b>61.69</b>
<b>Bottom 25%</b>	<b>37</b>	<b>334</b>	<b>90.91</b>

**Average Price-** The average price of paid tax returns in the chart above is \$130.51. Free tax returns, as explained below, are not included when calculating this average.